

Response

Claim Rejections – 35 USC § 112

The Examiner stated that claims 172-177, 179-194, and 196-219 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Claim Rejections – 35 USC § 103

The Examiner stated that claims 172-177, 179-183, 189-194, 200-202, 208-212, and 219 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch in view of Wagner [Wagner, Lon (Staff Writer); “Fry Fight as Fast-Food Chains Face Off With French Fries, We Weigh The Issue For You”; Virginian-Pilot, Norfolk, VA; April 06, 1997 extracted on Internet from Proquest Database] in view of Perkins [Perkins, Ed; “Consumer Reports On Travel Careful Shopping Will Avoid Bait-and-Switch Promotions”; The Atlanta Constitution; Atlanta, GA; Jan 4, 1995 extracted on Internet from Proquest Database] and further in view of Kurtzman [Kurtzman, II et al. US Patent 6,144,944].

The Examiner stated that claims 184-188 were rejected under 35 U.S.C. 103(a) as being obvious over Lynch/Wagner/Perkins/Kurtzman as applied to claim 172 in view of Official Notice.

The Examiner stated that claims 196-199 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch/Wagner/Perkins/Kurtzman in view of Pocock (US Pub. 2002/0023272 A1).

The Examiner stated that claims 203-207 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch/Wagner/Perkins/Kurtzman and further in view of Kenney (US Patent 6,381,583).

The Examiner stated that claims 213-214 were rejected under 35 U.S.C. 103(a) as being obvious over Lynch/Wagner/Perkins/Kurtzman as applied to claim 212 and further in view of Official Notice.

The Examiner stated that claim 215 was rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch/Wagner/Perkins/Kurtzman as applied to claim 212 and further in view of Bernard et al. (US Patent 5,918,213), hereinafter, referred to as Bernard.

The Examiner stated that claims 216-217 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch/Wagner/Perkins/Kurtzman as applied to claim 172 and further in view of Tagawa (5,732,398).

The Examiner stated that claim 218 was rejected under 35 U.S.C. 103(a) as being obvious over Lynch/Wagner/Perkins/Kurtzman as applied to claim 172 and further in view of Gerszberg et al. (US Patent 5,970,473), hereinafter, referred to as Gerszberg.

Remarks

Although the Applicant believes the current limitations are supported by independent claim 172, Applicant has amended claim 172 purely to expedite the prosecution of the instant invention. Currently amended claim 172 currently includes the limitation of offering the second good or service to the prospective customer in lieu of the first good or service whereby the upsell serves to obviate the purpose for the primary transaction and the upsell is successful in providing the customer with the second good or service in replacement thereof. Support for this limitation can be found at least in the following paragraph of the instant invention:

“As shown in Fig. 4, a user interacts with the system via contact block 140 such as by having a primary transaction comprising an Internet order transaction being entered or effectuated by a user at a personal computer (PC) terminal. During the course of the primary transaction, processing step 142 serves to receive data at a address website and process the primary transaction. That transaction may be optionally consummated or not as suits the overall purpose of the transaction. By way of example, if the upsell serves to obviate the purpose for the primary transaction, such as when the primary transaction is for customer service or repair, and the upsell is successful in providing the customer with a new product in replacement thereof, then the primary transaction need not be consummated in the manner contemplated by the user at the point of initial contact 140. Continuing with the flow of the program, at analysis block 140, the various inputs for use by the analysis system are collected, and subsequently analyzed. In the course of this collection and analysis, various sites, such as the websites own database, 144, remote database A 150 and/or remote database B 152 may be accessed. The coupling 154 between the analysis system 144 and the website database 146, as well as the couplings 156 to the external or other databases, 152, as well as any coupling 158 between the databases 146 (coupling to other databases not shown), 150, 152, may be implemented as known by those skilled in the art. The particular selection of interconnections between various components is left to selection of implementation, where the implementation merely needs to be consistent with the goals, objects and functionalities of this invention. Upon completion of the analysis at analysis block 144, the output of the analysis block 144 is provided to the user through action block 148. The upsell data may then be displayed on the caller’s PC as an additional offer, or in lieu of the primary transaction.”

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As such, Applicant believes that currently amended claim 172, as well as the claims that depend from it, are in condition for allowance and respectfully request they be passed to allowance.

Respectfully submitted,

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